IN THE UNITED STATES DISTRICT COURT FOR THE NORTHERN DISTRICT OF TEXAS DALLAS DIVISION

XIAO CHEN LIN,)	
ID # 08242-043,)	
Movant,)	
)	No. 3:19-CV-263-M-BH
VS.)	No. 3:16-CR-270-M(1)
)	
UNITED STATES OF AMERICA,)	
Respondent.)	

ORDER ACCEPTING FINDINGS AND RECOMMENDATION OF THE UNITED STATES MAGISTRATE JUDGE

After reviewing the Findings, Conclusions, and Recommendation of the United States Magistrate Judge for plain error, I am of the opinion that the Findings and Conclusions of the Magistrate Judge are correct and they are accepted as the Findings and Conclusions of the Court.

The Petitioners [sic] motion for Relief from a judgment or order pursuant to the Federal Rules of Civil Procedure, Rule 60(b)(6), received on June 1, 2022 (doc. 65), is CONSTRUED as a successive motion to vacate filed under 28 U.S.C. § 2255. The Clerk of the Court is DIRECTED to: (1) terminate the post-judgment motion in this habeas case; (2) open a new habeas case for administrative purposes only; (3) docket the post-judgment motion as a § 2255 motion filed March 23, 2021, in that new case; (4) directly assign the new case to the same District Judge and Magistrate Judge as in this case; (5) file a copy of the Findings, Conclusions, and the order accepting those Findings, Conclusions, and Recommendation, and the judgment in that new case; and (6) without further judicial action, immediately TRANSFER the newly opened § 2255 action to the United States Court of Appeals for the Fifth Circuit.¹

¹ A certificate of appealability (COA) is not required to appeal an order transferring a successive habeas petition. *See In re Garrett*, 633 F. App'x 260, 261 (5th Cir. 2016); *United States v. Fulton*, 780 F.3d 683 (5th Cir. 2015).

SIGNED this 6th day of July, 2022.

BARBARA M. G. LYNN

CHIEF JUDGE